

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

TYSHAWN M. COLE,	:	Case No. 1:19-cv-607
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	
vs.	:	Magistrate Judge Karen L. Litkovitz
	:	
TEE GRIZZLY, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 4) AND
TERMINATING THIS CASE IN THIS COURT**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on August 5, 2019, filed a Report and Recommendation, recommending that Plaintiff's complaint be dismissed. (Doc. 4).

On August 14, 2019, Plaintiff filed a Notice of Appeal. (Doc. 5). The Notice of Appeal is only partially filled out. (*Id.*) Thereafter, on September 30, 2019, Plaintiff filed a Motion to Reduce Time. (Doc. 6). The Motion to Reduce Time appears to ask for an order on an expedited basis. (*Id.*)

As an initial matter, neither Plaintiff's Notice of Appeal nor Plaintiff's Motion to Reduce Time is well-taken. (Docs. 5, 6). A Report and Recommendation is not an appealable order. *Grant v. Morris*, No. 88-3162, 1988 WL 79695, at *1 (6th Cir. July 29, 1988). And a litigant cannot tell the Court when to issue an order.

Moreover, as required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court finds that the Report and Recommendation should be and is hereby adopted in its entirety.

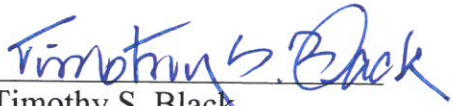
Accordingly, for the reasons stated above:

1. Plaintiff's Notice of Appeal (Doc. 5) is **STRICKEN** as premature;
2. Plaintiff's Motion to Reduce Time (Doc. 6) is **DENIED** as moot;
3. The Report and Recommendation (Doc. 4) is **ADOPTED** in its entirety;
4. Plaintiff's complaint (Doc. 3) is **DISMISSED** with prejudice;
5. The Clerk shall enter judgment accordingly, whereupon this case is **TERMINATED** on the docket of this Court; and
6. The Court certifies that, pursuant to 28 U.S.C. § 1915(a), an appeal of this Order would not be taken in good faith and therefore **DENIES** Plaintiff leave to appeal *in forma pauperis*. Plaintiff remains free to apply to proceed *in forma pauperis* in the Court of Appeals. See *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999), *overruling in part Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6th Cir. 1997).

IT IS SO ORDERED.

Date: _____

1/8/20


Timothy S. Black
United States District Judge